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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/784,575	02/15/2001	Tim Cantrell	23101.0003U1	1832
23859	7590	02/08/2005	EXAMINER	
NEEDLE & ROSENBERG, P.C. SUITE 1000 999 PEACHTREE STREET ATLANTA, GA 30309-3915			WILSON, MICHAEL C	
			ART UNIT	PAPER NUMBER
			1632	

DATE MAILED: 02/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Interview Summary	Application No. 09/784,575	Applicant(s) CANTRELL ET AL.	
	Examiner Michael C. Wilson	Art Unit 1632	

All participants (applicant, applicant's representative, PTO personnel):

- (1) Michael C. Wilson. (3) _____
 (2) Bruce Becker. (4) _____

Date of Interview: 01 February 2005.

Type: a) ☒ Telephonic b) ☐ Video Conference
 c) ☐ Personal [copy given to: 1) ☐ applicant 2) ☐ applicant's representative]

Exhibit shown or demonstration conducted: d) ☒ Yes e) ☐ No.

If Yes, brief description: see attached copy of proposed claim 59 Option 1 and Option 2.

Claim(s) discussed: proposed claim 59, options 1 and 2.

Identification of prior art discussed: none.

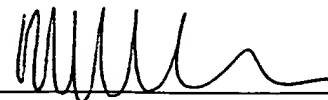
Agreement with respect to the claims f) ☐ was reached. g) ☒ was not reached. h) ☐ N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: see attached.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN ONE MONTH FROM THIS INTERVIEW DATE, OR THE MAILING DATE OF THIS INTERVIEW SUMMARY FORM, WHICHEVER IS LATER, TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.

MICHAEL WILSON
 PRIMARY EXAMINER



Examiner's signature, if required

Examiner Note: You must sign this form unless it is an Attachment to a signed Office action.

Summary of Record of Interview Requirements

Manual of Patent Examining Procedure (MPEP), Section 713.04, Substance of Interview Must be Made of Record

A complete written statement as to the substance of any face-to-face, video conference, or telephone interview with regard to an application must be made of record in the application whether or not an agreement with the examiner was reached at the interview.

Title 37 Code of Federal Regulations (CFR) § 1.133 Interviews

Paragraph (b)

In every instance where reconsideration is requested in view of an interview with an examiner, a complete written statement of the reasons presented at the interview as warranting favorable action must be filed by the applicant. An interview does not remove the necessity for reply to Office action as specified in §§ 1.111, 1.135. (35 U.S.C. 132)

37 CFR §1.2 Business to be transacted in writing.

All business with the Patent or Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

The action of the Patent and Trademark Office cannot be based exclusively on the written record in the Office if that record is itself incomplete through the failure to record the substance of interviews.

It is the responsibility of the applicant or the attorney or agent to make the substance of an interview of record in the application file, unless the examiner indicates he or she will do so. It is the examiner's responsibility to see that such a record is made and to correct material inaccuracies which bear directly on the question of patentability.

Examiners must complete an Interview Summary Form for each interview held where a matter of substance has been discussed during the interview by checking the appropriate boxes and filling in the blanks. Discussions regarding only procedural matters, directed solely to restriction requirements for which interview recordation is otherwise provided for in Section 812.01 of the Manual of Patent Examining Procedure, or pointing out typographical errors or unreadable script in Office actions or the like, are excluded from the interview recordation procedures below. Where the substance of an interview is completely recorded in an Examiners Amendment, no separate Interview Summary Record is required.

The Interview Summary Form shall be given an appropriate Paper No., placed in the right hand portion of the file, and listed on the "Contents" section of the file wrapper. In a personal interview, a duplicate of the Form is given to the applicant (or attorney or agent) at the conclusion of the interview. In the case of a telephone or video-conference interview, the copy is mailed to the applicant's correspondence address either with or prior to the next official communication. If additional correspondence from the examiner is not likely before an allowance or if other circumstances dictate, the Form should be mailed promptly after the interview rather than with the next official communication.

The Form provides for recordation of the following information:

- Application Number (Series Code and Serial Number)
- Name of applicant
- Name of examiner
- Date of interview
- Type of interview (telephonic, video-conference, or personal)
- Name of participant(s) (applicant, attorney or agent, examiner, other PTO personnel, etc.)
- An indication whether or not an exhibit was shown or a demonstration conducted
- An identification of the specific prior art discussed
- An indication whether an agreement was reached and if so, a description of the general nature of the agreement (may be by attachment of a copy of amendments or claims agreed as being allowable). Note: Agreement as to allowability is tentative and does not restrict further action by the examiner to the contrary.
- The signature of the examiner who conducted the interview (if Form is not an attachment to a signed Office action)

It is desirable that the examiner orally remind the applicant of his or her obligation to record the substance of the interview of each case. It should be noted, however, that the Interview Summary Form will not normally be considered a complete and proper recordation of the interview unless it includes, or is supplemented by the applicant or the examiner to include, all of the applicable items required below concerning the substance of the interview.

A complete and proper recordation of the substance of any interview should include at least the following applicable items:

- 1) A brief description of the nature of any exhibit shown or any demonstration conducted,
- 2) an identification of the claims discussed,
- 3) an identification of the specific prior art discussed,
- 4) an identification of the principal proposed amendments of a substantive nature discussed, unless these are already described on the Interview Summary Form completed by the Examiner,
- 5) a brief identification of the general thrust of the principal arguments presented to the examiner,
(The identification of arguments need not be lengthy or elaborate. A verbatim or highly detailed description of the arguments is not required. The identification of the arguments is sufficient if the general nature or thrust of the principal arguments made to the examiner can be understood in the context of the application file. Of course, the applicant may desire to emphasize and fully describe those arguments which he or she feels were or might be persuasive to the examiner.)
- 6) a general indication of any other pertinent matters discussed, and
- 7) if appropriate, the general results or outcome of the interview unless already described in the Interview Summary Form completed by the examiner.

Examiners are expected to carefully review the applicant's record of the substance of an interview. If the record is not complete and accurate, the examiner will give the applicant an extendable one month time period to correct the record.

Examiner to Check for Accuracy

If the claims are allowable for other reasons of record, the examiner should send a letter setting forth the examiner's version of the statement attributed to him or her. If the record is complete and accurate, the examiner should place the indication, "Interview Record OK" on the paper recording the substance of the interview along with the date and the examiner's initials.

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Two proposed amendments to claim 59 were discussed. The proposed amendments were also added to claims 64 and 65. The 2 new proposed claim 88s were not reviewed by the examiner or discussed during the interview.

An egg comprising an "ovum, a yolk and a shell deposited around the ovum and the yolk before oviposition, wherein the ovum is fertilized and is an embryo" in option 1 of claim 59 would have an indefiniteness problem because an egg either comprises an ovum or an embryo. the egg cannot comprise an ovum that is an embryo as claimed because an ovum is not an embryo. In option 2, the limitation of "a native embryo" was discussed. The fax cited pg 5, lines 626; pg 8, lines 1-6 and Example 1 - pg 36, line 1 to pg 37, line 12, but the phrase "native embryo" could not be found. During the interview, Mr. Becker reminded the examiner of the paragraph bridging pg 11-12.

"In another embodiment, the present invention provides an oviposited avian egg comprising a native embryo having fewer than 40,000 cells, wherein the embryo can develop into a live chick. "Native" means growing, living or produced in its place of origin. Thus, a native embryo is an embryo that develops and hatches in the same shell in which the female pronucleus was formed. Thus, the embryo is descended from the native ovum. By the time an ovum which has been fertilized naturally has been oviposited, the developing embryo typically has between 40,000 and 70,000 cells. However, the egg of the present invention is fertilized after it has been oviposited in its shell; thus, an embryo developing in the egg of the present invention will at some time during incubation have fewer than 40,000 cells. In fact, at the moment of activation, the embryo in the egg of the present invention will have one cell and is a zygote."

Mr. Becker indicated the phrase "native embryo" is intended to be limited to an embryo that develops and hatches in the same shell in which the female pronucleus used to make the embryo was formed. Example 1 most closely resembles the subject matter applicants wish to claim.

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The examiner agreed that the paragraph bridging pg 11-12 of the specification supports "native embryo" as claimed but is confusing and would require reinstating the indefiniteness rejection made 10-31-02 on pg 8. To prevent reinstating the 112/2nd rejection regarding "native," applicants must adequately argue the specification as originally filed would have allowed one of skill to conclude that i) the phrase "native embryo" is limited to an embryo that develops and hatches in the same shell in which the female pronucleus used to make the embryo was formed and ii) the phrase "native embryo" excludes embryos that have been removed from their shells and put into new shells in which they later are born.

VIA FACSIMILE: 571/273-0738

To: Examiner M. Wilson

Re: Proposed Claim Amendments for 23101.0003U1

U.S. Application No. 09/784,575

February 1, 2005

What is claimed is:

1-58. (canceled)

59. (currently amended) An oviposited avian egg from which a live chick can hatch, comprising an ~~embryo and a shell, wherein the shell is deposited around a female pronucleus before the female pronucleus joins a male pronucleus and the embryo develops from the joining of the female pronucleus and the male pronucleus in the shell,~~ ovum, a yolk and a shell deposited around the ovum and the yolk before oviposition, wherein the ovum is fertilized and is an embryo that has fewer than 30,000 cells and can develop in the shell and hatch as a live chick. **OPTION 1**

(currently amended) An oviposited avian egg from which a live chick can hatch, comprising an ~~embryo and a shell, wherein the shell is deposited around a female pronucleus before the female pronucleus joins a male pronucleus and the embryo develops from the joining of the female pronucleus and the male pronucleus in the shell,~~ a native embryo, wherein the embryo has fewer than 30,000 cells and can develop in the shell and hatch as a live chick. **OPTION 2**

59. (currently amended) An oviposited avian egg from which a live chick can hatch, comprising an ovum, a yolk and a shell deposited around the ovum and the yolk before oviposition, wherein the ovum is fertilized and is an embryo that has fewer than 30,000 cells and can develop in the shell and hatch as a live chick.

OPTION 1

ALTERNATIVELY: